

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: MAY 11, 2010

SUBJECT: ADDING TWO RULES TO THE COMMISSION'S NOTICE OF
PROPOSED RULEMAKING, IDAPA 31.01.01, DOCKET NO. 31-0101-1001
(IPUC CASE NO. RUL-U-10-01)

As Staff was preparing the formal Notice of Proposed Rulemaking for the negotiated rules adopted by the Commission last week, Staff came across two other rules that the Commission may consider updating. As set out below, Rule 4 has not been updated since the Commission converted its Rules of Procedure to the new APA format in 1993. In addition, Rule 4 also does not reference subsequently adopted rules (most notably Rules 67 and 287) that address confidential material. In Rule 26, a citation to *Idaho Code* § 9-337 needs to be updated (changing subsection (4) to (6)). The Staff proposed changes to Rules 4 and 26 are set out below.

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

Except as provided by statute and Rules 26, 52, 67, and 233, and 287, all materials filed with the Commission pursuant to these rules and all materials issued by the Commission pursuant to these rules are public documents subject to inspection, examination and copying. (~~7-1-93~~)()

026.INFORMAL FILES MAY BE INVESTIGATIVE RECORDS (RULE 26).

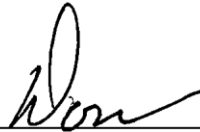
Files created by the Commission and its Staff in response to informal inquiries or complaints are investigatory records within the meaning of Sections 9-337(~~46~~) and 9-340B(1), Idaho Code, are generally exempt from disclosure according to the standards of Sections 9-337 through 9-348, Idaho Code, but are available under Section 9-342, Idaho Code, to the customer, applicant, utility, carrier, etc., that are the subjects of the investigation. (~~4-5-00~~)()

Staff has also advised the parties that participated in the negotiated rulemaking workshop or supplied comments with the proposed changes noted above. Qwest, Verizon, Idaho Power, and Avista have responded that they have no objections to the changes to Rules 4 and 26.

COMMISSION DECISION

Does the Commission wish to adopt the changes to Rules 4 and 26 set out above?

Does the Commission desire to include these changes in its formal Notice of Proposed Rulemaking to be published in the Idaho Administrative Bulletin on June 4, 2010?



Don Howell
Deputy Attorney General

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